

Message Text

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PAGE 01 STATE 197857
ORIGIN COME-00

INFO OCT-01 ARA-10 EUR-12 ISO-00 OES-07 L-03 DLOS-09
EB-08 CG-00 DOTE-00 EPA-01 CIAE-00 INR-07 NSAE-00
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FM SECSTATE WASHDC
TO AMCONSUL GUAYAQUIL IMMEDIATE
INFO AMEMBASSY QUITO
AMEMBASSY MEXICO
AMEMBASSY LIMA
AMEMBASSY MADRID

C O N F I D E N T I A L STATE 197857

E.O. 11652: GDS

TAGS: EFIS, EC

SUBJECT: ECUADORIAN COMPLIANCE WITH 50 CFR 216.24
(E)(4)

REF: QUITO 5144, AUGUST 2, 1977; B) GUAYAQUIL 1206,
JULY 28, 1977

1. THE DIRECTOR OF THE NATIONAL MARINE FISHERIES
SERVICE (NMFS) HAS REVIEWED MATERIAL SUBMITTED IN
SERIES OF QUESTIONS AND ANSWERS BETWEEN THE FISHING
ASSOCIATION OF ECUADOR AND THE ECUADORIAN DIRECTORATE
GENERAL OF FISHERIES (REF B).

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 STATE 197857

THE DIRECTOR CONSIDERS THE ECUADORIAN PROPOSALS A
SUITABLE WAY OF INDICATING INTEREST OF GOE TO OBTAIN
A FINDING ALLOWING THE IMPORTATION OF YELLOWFIN TUNA
AFTER OCTOBER 1, 1977. SEVERAL CLARIFICATIONS ARE
REQUIRED, HOWEVER, BEFORE THE DIRECTOR CAN MAKE A
DECISION REGARDING A FINDING.

2. FOREIGN-FLAG VESSELS, OPERATING IN ECUADORIAN WATERS, ARE VESSELS WITH LARGE CARRYING CAPACITY AND ARE CAPABLE AND WOULD BE EXPECTED TO FISH "ON PORPOISE". ANSWERS C AND E IN REF B DEAL WITH THE "NATIONAL" FISHING FLEET WHICH WE ASSUME TO INCLUDE

ONLY THE 26 ECUADORIAN-FLAG VESSELS. PLEASE COMMUNICATE THE PROVISIONS UNDER WHICH FOREIGN-FLAG VESSELS, OPERATING OFF ECUADOR UNDER "ASSOCIATION OR CHARTER ARRANGEMENTS" WITH ECUADORIAN COMPANIES, ARE SUBJECT TO ECUADORIAN JURISDICTION. U.S. REGULATIONS SEEK TO BASE FINDINGS ON A VESSEL'S FLAG OF REGISTRY RATHER THAN ON ITS CONTROL BY THE COUNTRY IN WHOSE WATERS THE VESSEL MAY BE OPERATING THROUGH "ASSOCIATION OR CONTRACT AGREEMENTS". NMFS WOULD PREFER THAT THE GOVERNMENTS UNDER WHOSE FLAG THE TUNA VESSELS ARE REGISTERED, RATHER THAN THE GOVERNMENTS IN WHOSE WATERS THESE VESSELS MAY OPERATE, MAKE THE CERTIFICATION. NMFS WOULD APPRECIATE CONGEN PROVIDING THE NATIONALITY (FLAG OF REGISTRY) OF EACH FOREIGN VESSEL LISTED IN REF B. IT MAY BE POSSIBLE, HOWEVER, TO ACCEPT CERTIFICATION BY GOE IF CONGEN BELIEVES THAT GOE EXERCIZES SUFFICIENT CONTROL OVER THE FOREIGN-FLAG VESSELS.

3. WILL 1977 EXPORTS TO U.S. BE CAUGHT ONLY BY LISTED
CONFIDENTIAL

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PAGE 03 STATE 197857

ECUADORIAN-FLAG VESSELS? PLEASE CONFIRM WHETHER ANY CATCH BY THE FOREIGN-FLAG FLEET WILL BE EXPORTED TO U.S.

4. IT WOULD ALSO BE DESIRABLE TO RECEIVE A STATEMENT OF EXPECTED 1978 TUNA EXPORTS TO THE U.S. SINCE THE EFFECTIVE DATE OF IMPLEMENTATION HAS BEEN POSTPONED.

5. A COPY OF THE ECUADORIAN FISHERIES DEVELOPMENT LAW IS DESIRABLE, IF AVAILABLE.

6. IF A FAVORABLE FINDING IS MADE, U.S. REGULATIONS WILL REQUIRE THAT A RESPONSIBLE GOE OFFICIAL SIGN A STATEMENT FOR EACH YELLOWFIN TUNA SHIPMENT TO THE U.S. (U.S. FORM 370-1 HAS BEEN POUCHED TO THE CONGEN). PLEASE CONFIRM THAT GOE OFFICIALS UNDERSTAND THIS REQUIREMENT.

7. NMFS WISHES TO BRING THE FOLLOWING MATTERS TO THE CONGEN'S ATTENTION:

A) EVEN IF ECUADORIAN VESSELS FISHED EXTENSIVELY ON PORPOISE, THE CARCASSES WOULD PROBABLY NOT BE LANDED

IN ECUADORIAN PORTS. U.S. TUNA FISHERMEN REGULARLY
DISCARD DEAD PORPOISES AT SEA (ANSWER A, REF B).

B) THE FACT THAT ECUADORIAN FISHERY INSPECTORS, WHICH
NMFS ASSUMES ARE BASED ON SHORE, HAVE NOT SEEN THE
"DISCHARGE" OF PORPOISES (ANSWER E), DOES NOT MEAN
THAT FISHING OPERATIONS HAVE NOT RESULTED IN AN
INCIDENTAL PORPOISE KILL (SEE 7.A. ABOVE).

C) THE ONLY VALUE OF PORPOISES TO ANY TUNA FISHERMEN
IS THAT THEY SERVE AS A "BIOLOGICAL INDICATOR OF SCHOOLS
OF TUNA". IF PORPOISES ARE BEING USED BY ECUADORIAN
FISHERMEN TO LOCATE TUNA, THEN AN INCIDENTAL PORPOISE
KILL IS MOST LIKELY (ANSWER F).
CONFIDENTIAL

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PAGE 04 STATE 197857

D) THE USE OF "LARGE NETS" BY ECUADORIAN PURSE SEINERS
SUGGESTS THE FLEET'S CAPABILITY OF FISHING ON PORPOISE.
IF "LARGE NETS" REFERS TO THE MESH SIZE, THE USE OF
LARGE MESH WOULD RESULT IN A HIGH PORPOISE MORTALITY.
THE USE OF SMALLER MESH REDUCES THE NUMBER OF PORPOISES
WHICH BECOME ENTANGLED IN THE NET (ANSWER G).

8. FOR LIMA AND MADRID ONLY. NMFS BELIEVES THAT
SOME OF THE FOREIGN-FLAG VESSELS MENTIONED IN
PARAGRAPH 3 OF REF B ARE PERUVIAN AND SPANISH VESSELS.
IF THIS IS TRUE, EXPORTS OF YELLOWFIN TUNA CAUGHT BY
THESE VESSELS COULD BE AFFECTED BY SUBJECT REGULATIONS.
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